

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BRIANN T. MILLS	:	CIVIL ACTION
	:	
v.	:	NO. 20-1272
	:	
AFSCME DISTRICT COUNCIL 33, <i>et</i>	:	
<i>al.</i>	:	

ORDER

AND NOW, this 13th day of May 2020, upon considering the City of Philadelphia's Motion to dismiss (ECF Doc. No. 6), Plaintiff's Response (ECF Doc. No. 7), the parties' Stipulation to identify the correct labor union Defendant (ECF Doc. No. 10), and for reasons in the accompanying Memorandum, it is **ORDERED** the City's Motion to dismiss (ECF Doc. No. 6) is **GRANTED**:

1. **With prejudice** as to the Plaintiff's due process claims and class-of-one equal protection claim against the City;

2. **Without prejudice** as to an equal protection claim against the City not dismissed with prejudice and with leave to file a second amended complaint on or before **May 27, 2020**:

a. Alleging an equal protection claim against the City if possible, under Fed.R.Civ.P. 11, by being a member of a protected class, similarly situated members of an unprotected class, and the City treated him differently than members of the unprotected class as well as any other claim not dismissed with prejudice; and,

b. Consistent with the parties' Stipulation (ECF Doc. No. 10), identifying the correct labor union Defendant and obtaining a summons against the correct Defendant for service of the second amended complaint upon it.



KEARNEY, J.